

**DURHAM, NORTH CAROLINA  
MONDAY, NOVEMBER 19, 2007  
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Excused Absence: Mayor Bell.

Also present: City Manager Patrick Baker, City Attorney Henry Blinder, City Clerk D. Ann Gray and Deputy City Clerk Linda Bratcher.

Mayor Pro Tempore Cole-McFadden called the meeting to order with a moment of silent meditation and the Pledge of Allegiance led by Council Member Clement.

**MOTION** by Council Member Catotti seconded by Council Member Brown to excuse Mayor Bell from the City Council Meeting was approved at 7:03 p.m. by the following vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Excused Absence: Mayor Bell.

Mayor Pro Tempore Cole-McFadden read proclamations designating December 1, 2007 as Arbor Day presented to Alex Johnson who made comments and November 19, 2007 as City of ONE presented to Shawn Selleck who made comments.

City Council Members made comments on the following events attended and special recognition of individuals, organizations, etc:

Council Member Woodard: Congressional Quarterly Press reported Durham as the third safest city in North Carolina; East Coast Greenway Annual Board Meeting; American Legion Post 7 - Veteran's Day celebration; Transportation staff and everyone involved who helped to facilitate the I-40 bridge presentation; 50th Anniversary of Olive & Olive Law Firm; UNCF Banquet; Durham A Self-Portrait Documentary; Durham Arts Council & Durham Parks & Recreation - Art Walk - publication by Emily Weinstein entitled "*Saving Magic Places*".

Council Member Catotti: Thanked everyone who voted and supported her during the recent election; 33rd Anniversary of the Durham NAACP; and Clean Energy Durham fundraiser.

Council Member Brown: Addressed the letter sent to residents of Durham by the Durham County Tax Assessor's Office who is responsible for the property evaluation.

Deputy City Manager Ted Voorhees explained the property re-evaluation process in which the County of Durham is the lead agency.

Council Member Clement: NAACP Freedom Fund Dinner honorees.

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Mayor Pro Tempore Cole-McFadden shared with Council that she attended the NLC's Conference in New Orleans and announced she was re-appointed to the Human Development Policy and Advocacy Committee.

Mayor Pro Tempore Cole-McFadden asked for priority items from the City Manager, City Attorney and City Clerk. City Manager Baker requested that the following annexation petition that was removed at the Work Session be added back to Agenda Item #1 -- FY 2007-14 Jordan at Southpoint.

He asked that the GBA Item #44 [Police Department 3rd Quarter Crime Report] be heard after the Consent Agenda; reported on his visit to 2nd graders at Forest View Elementary School who discussed the issue of conservation. Finally, he gave a brief overview of the water supply highlighting the severe drought, reduction of demand, weather forecast; 64 days of premium water remaining; notices of violations and upcoming staff meeting next Monday to discuss next steps and to consider at that time moving to additional mandatory conservation stages depending on the weather forecast.

Council held discussion on the Teer Quarry.

City Manager Baker announced the State has allowed the City to do temporary tapping into Teer Quarry and temporary taps should be up and ready in the next couple of weeks. He stated it would take 18 to 24 months to bring the facility completely on line.

Council held discussion on water supply remaining and Jordan Lake.

**MOTION** by Council Member Stith seconded by Council Member Catotti to accept the City Manager's priority items was approved at 7:35 p.m. by the following vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Excused Absence: Mayor Bell.

There were no priority items from the City Attorney and City Clerk.

Mayor Pro Tempore Cole-McFadden asked if any citizen(s) or council member(s) wanted to pull any items from the Consent Agenda. No items were pulled from the Consent Agenda.

Relative to Consent Agenda Item 1-F [Voluntary Annexation Petition – TW Alexander Property], Council Member Stith stated he would be abstaining from voting on this item due to a potential conflict.

**MOTION** by Council Member Stith seconded by Council Member Catotti to approve the Consent Agenda was approved at 7:40 p.m. by the following vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Excused Absence: Mayor Bell.

**[CONSENT AGENDA]**

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**SUBJECT: VOLUNTARY ANNEXATION PETITIONS RECEIVED BY JULY 31, 2007**

**MOTION** by Council Member Stith seconded by Council Member Catotti to adopt the resolutions scheduling public hearings for Monday, December 3, 2007 to receive citizen comments concerning voluntary petitions for the following properties to be annexed effective from and after December 31, 2007 was approved at 7:40 p.m. by the following vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Excused Absence: Mayor Bell.

- a) FY2007-17 Glenn View Station – **Resolution #9507**
- b) FY2008-01 Newhope Church – **Resolution #9508**
- c) FY2008-03 Finsbury Phase II - **Resolution #9509**
- d) FY2008-04 Bethesda Park – **Resolution #9510**
- e) FY2008-06 Steel Blue/JT Properties of Durham, LLC - **Resolution #9511**
- g) FY2007-14 Jordan at Southpoint – **Resolution #9513**

**MOTION** by Council Member Stith seconded by Council Member Catotti to adopt a resolution scheduling a public hearing for Monday, December 3, 2007 to receive citizen comments concerning voluntary petition for the following property to be annexed effective from and after December 31, 2007 was approved at 7:40 p.m. by the following vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement and Woodard. Noes: None. Abstention: Council Member Stith. Excused Absence: Mayor Bell.

- f) FY2008-05 TW Alexander Property – **Resolution #9512**

**SUBJECT: APPROVAL OF CITY COUNCIL MINUTES**

**MOTION** by Council Member Stith seconded by Council Member Catotti to approve City Council minutes for the October 1, 2007 and October 15, 2007 City Council Meetings;

To approve minutes for the September 19, 2007 Joint Meeting of the Durham City Council and Durham Board of County Commissioners; and

To approve City Council action taken at the September 20, 2007 and October 4, 2007 City Council Work Sessions was approved at 7:40 p.m. by the following vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Excused Absence: Mayor Bell.

**SUBJECT: DURHAM OPEN SPACE AND TRAILS COMMISSION - APPOINTMENT**

**MOTION** by Council Member Stith seconded by Council Member Catotti to appoint Deborah C. Morgan to fill one (1) vacancy on the Durham Open Space & Trails Commission to represent Ward 2 with the term to expire on June 30, 2010 was approved at 7:40 p.m. by the following

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vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Excused Absence: Mayor Bell.

**SUBJECT: DURHAM BICYCLE AND PEDESTRIAN ADVISORY COMMISSION - APPOINTMENT**

**MOTION** by Council Member Stith seconded by Council Member Catotti to reappoint John W. Warman, III to the Durham Bicycle & Pedestrian Advisory Commission with the term to expire on August 31, 2010 was approved at 7:40 p.m. by the following vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Excused Absence: Mayor Bell.

**SUBJECT: PASSENGER VEHICLE FOR HIRE COMMISSION - APPOINTMENTS**

**MOTION** by Council Member Stith seconded by Council Member Catotti to appoint Danny Blackwell (representing Passenger) and Maria Singleton (representing Law) to the Passenger Vehicle for Hire Commission with the terms to expire on January 1, 2010 was approved at 7:40 p.m. by the following vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Excused Absence: Mayor Bell.

**SUBJECT: DURHAM CULTURAL MASTER PLAN ADVISORY BOARD - APPOINTMENT**

**MOTION** by Council Member Stith seconded by Council Member Catotti to appoint Sherry L. Devries to the Durham Cultural Master Plan Advisory Board with the term to expire on June 30, 2008 was approved at 7:40 p.m. by the following vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Excused Absence: Mayor Bell.

**SUBJECT: CAPITAL PROGRAM ADVISORY COMMITTEE - APPOINTMENT**

**MOTION** by Council Member Stith seconded by Council Member Catotti to appoint John A. Steer to the Capital Program Advisory Committee to represent Project Management with the term to expire on March 31, 2008 was approved at 7:40 p.m. by the following vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Excused Absence: Mayor Bell.

**SUBJECT: BID REPORT – SEPTEMBER 2007**

**MOTION** by Council Member Stith seconded by Council Member Catotti to receive a report and to record into the minutes bids which were acted upon by the City Manager during the

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month of September 2007 was approved at 7:40 p.m. by the following vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Excused Absence: Mayor Bell.

**Date:**           **October 5, 2007**

**To:**             Patrick W. Baker, City Manager

**Through:**     Wanda S. Page, Deputy City Manager  
                  Kenneth C. Pennoyer, Finance Director

**From:**        Joseph W. Clark, Purchasing Manager

**Subject:**      Bid Report – September 2007

**Recommendation**

To receive a report and to record into the minutes bids which were acted upon by the City Manager during the month of **September 2007**.

Apparatus, Supplies, Materials, Equipment, Construction and Repairwork:

1.     **Bid:**           **One (1) 21-ton trailer**

Purpose of Bid:       To provide the Water & Sewer Maintenance Division with an equipment trailer.

Comments:

Opened:           August 31, 2007

Bidders:	Gregory Poole Equipment Co.	* \$28,792.00
	Raleigh, NC	
	Kelly Tractor Company	\$31,000.00
	Miami, FL	

\*Awarded based on: X Low Bid   \_\_\_\_\_ Other (See Comments)

**WORKFORCE STATISTICS**  
**CORPORATION STATISTICS**

Total Workforce	511		# Black Males	41	8%
Total # Females	68	13%	# White Males	385	75%
Total # Males	443	87%	# Other Males	17	3%
			# Black Females	5	1%
			# White Females	60	12%
			# Other Females	3	1%

The SDBE Data Base was used in the solicitation of bids for this item.

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**2. Bid: Survivair SCBA Equipment & Accessories**

Purpose of Bid: To purchase Survivair SCBA Equipment with cylinder paks for the Fire Department.

Comments:

Opened: September 4, 2007

Bidders:	Stevens Fire Equipment/NAFECO	*\$43,251.00
	Morganton, NC	
	C.W. Williams & Company	\$44,416.25
	Rocky Mount, NC	

\*Awarded based on: ☒ Low Bid ☐ Other (See Comments)

**WORKFORCE STATISTICS**  
**CORPORATION STATISTICS**

Total Workforce	95		# Black Males	0	0%
Total # Females	35	37%	# White Males	58	61%
Total # Males	60	63%	# Other Males	2	2%
			# Black Females	1	1%
			# White Females	27	28%
			# Other Females	7	7%

The SDBE Data Base was used in the solicitation of bids for this item.

**3. Bid: Traffic Control Equipment**

Purpose of Bid: To provide the Transportation/Sign Shop with traffic control equipment.

Comments: Control Technologies is the eastern regional distributor of this equipment.

Opened: September 12, 2007

Bidders:	Control Technologies	*\$15,920.00
	Sanford, FL	

\*Awarded based on: ☐ Low Bid ☒ Other (See Comments)

**WORKFORCE STATISTICS**  
**CORPORATION STATISTICS**

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Total Workforce	25		# Black Males	2	8%
Total # Females	13	52%	# White Males	9	36%
Total # Males	12	48%	# Other Males	1	4%
			# Black Females	1	4%
			# White Females	10	40%
			# Other Females	2	8%

The SDBE Data Base was used in the solicitation of bids for this item.

**4. Bid: Custom Light Fixtures for the Civic Center**

Purpose of Bid: These fixtures are a part of the Civic Center renovation project.

Comments: Five fixtures @ \$14,850 each

Opened: September 17, 2007

Bidders:	Lite Makers, Inc.	* \$74,250.00
	Long Island City, NY	
	Unilight, LTD	\$90,550.00
	Montreal, Canada	

\*Awarded based on: X Low Bid \_\_\_\_\_ Other (See Comments)

**WORKFORCE STATISTICS**  
**CORPORATION STATISTICS**

Total Workforce	21		# Black Males	1	5%
Total # Females	4	19%	# White Males	12	57%
Total # Males	17	81%	# Other Males	4	19%
			# Black Females	0	0%
			# White Females	4	19%
			# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for this item.

**5. Bid: Traffic Sign Blanks**

Purpose of Bid: To provide Transportation/Sign Shop with sign blanks.

Comments:

Opened: September 13, 2007

Bidders:	Vulcan Signs	*\$20,198.70
	Foley, AL	
	Newman Signs	\$23,161.00

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Jamestown, ND  
Korman Signs Inc.  
Richmond, VA

\$32,713.75

\*Awarded based on: ☒ Low Bid ☐ Other (See Comments)

WORKFORCE STATISTICS  
CORPORATION STATISTICS

Total Workforce	176		# Black Males	49	27%
Total # Females	28	16%	# White Males	98	55%
Total # Males	148	84%	# Other Males	1	01%
			# Black Females	5	03%
			# White Females	22	12%
			# Other Females	1	01%

The SDBE Data Base was used in the solicitation of bids for this item.

**6. Bid: Carpet for the Durham Civic Center**

Purpose of Bid:

Comments: This item was previously bid and all bids received were over budget and over the informal bidding limit. The carpet was re-bid and Brintons US Axminster is the low responsive bidder.

Opened: September 26, 2007

Bidders:	Brintons US Axminster, Inc.	* \$ 88,642.99
	Kennesaw, GA	
	AT Work Interiors, Inc.	\$ 99,146.72
	Raleigh, NC	
	Bull City Rug Interior & Exteriors	\$220,497.56
	Durham, NC	

\*Awarded based on: ☒ Low Bid ☐ Other (See Comments)

WORKFORCE STATISTICS  
CORPORATION STATISTICS

Total Workforce	2066		# Black Males	5	1%
Total # Females	516	25%	# White Males	1395	67%
Total # Males	1550	75%	# Other Males	150	7%
			# Black Females	5	1%
			# White Females	461	22%
			# Other Females	50	2%



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The SDBE Data Base was used in the solicitation of bids for this item.

Sufficient funds were available at the time of the award. The Administration recommends acceptance of the above bids denoted by an asterisk (\*).

**SUBJECT: BIDS – POLICE VEHICLES - VIC BAILEY FORD**

**MOTION** by Council Member Stith seconded by Council Member Catotti to accept the bid from Vic Bailey Ford, in the amount of \$1,440,417.00 for providing the City with 65 Police Patrol Vehicles (Item No. 1) and 3 Police Pursuit Vehicles (Item No. 2);

To authorize the City Manager to enter into a contract with Vic Bailey Ford, in the amount of \$1,440,417.00 for providing the City with 65 Police Patrol Vehicles (Item No. 1) and 3 Police Pursuit Vehicles (Item No. 2); and

To authorize the City Manager to modify the contracts before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:40 p.m. by the following vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Excused Absence: Mayor Bell.

**SUBJECT: PIGGYBACK PURCHASE - THREE (3) TANDEM AXLE CAB AND CHASSIS - INTERNATIONAL TRUCK AND ENGINE CORPORATION**

**MOTION** by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to enter into a contract with International Truck and Engine Corporation, in the amount of \$210,972.00 for providing the City with three Tandem Axle Cab & Chassis; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:40 p.m. by the following vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Excused Absence: Mayor Bell.

**SUBJECT: PIGGYBACK PURCHASE – TRAFFIC PAVEMENT MARKING TRUCK BODY - M-B COMPANIES, INC.**

**MOTION** by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to enter into a contract with M-B Companies, Inc., in the amount of \$254,129.61 for providing the City with a Traffic Pavement Marking Truck Body; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are

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consistent with the general intent of the existing version of the contract was approved at 7:40 p.m. by the following vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Excused Absence: Mayor Bell.

**SUBJECT: STREET CLOSING - UNNAMED ALLEY OFF JACKSON STREET  
BETWEEN PAULI MURRAY PLACE AND CARROLL STREET (SC07-06)**

**MOTION** by Council Member Stith seconded by Council Member Catotti to adopt a resolution to set a public hearing on the proposed closing of an unnamed alley off Jackson Street between Pauli Murray Place and Carroll Street for December 17, 2007 was approved at 7:40 p.m. by the following vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Excused Absence: Mayor Bell.

**Resolution #9514**

**SUBJECT: DURHAM BOARD OF ADJUSTMENT ANNUAL REPORT**

**MOTION** by Council Member Stith seconded by Council Member Catotti to accept the Durham Board of Adjustment Annual Report for July 1, 2006 through June 30, 2007 was approved at 7:40 p.m. by the following vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Excused Absence: Mayor Bell.

**SUBJECT: STREET CLOSING – WHITCOMB STREET – 484.46 LINEAR FOOT  
WHITCOMB STREET RIGHT-OF-WAY (SC07-01)**

**MOTION** by Council Member Stith seconded by Council Member Catotti to adopt an Order permanently closing the 484.46 linear foot Whitcomb Street right-of-way, east of Underwood Avenue and west of Chapel Hill Road, conditioned on the recombination of lots and the dedication of easements for such property deemed sufficient by the City was approved at 7:40 p.m. by the following vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Excused Absence: Mayor Bell.

**Ordinance #13502**

**SUBJECT: SETTING PUBLIC HEARING TO CONSIDER ORDERING  
PETITIONED IMPROVEMENT - SEWER MAIN AND SEWER  
OUTFALL ON UMSTEAD ROAD**

**MOTION** by Council Member Stith seconded by Council Member Catotti to accept a Certificate of Sufficiency from the Manager of Engineering and Stormwater for the following petition; and

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To adopt a resolution setting a public hearing for December 3, 2007, to consider ordering the following improvement was approved at 7:40 p.m. by the following vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Excused Absence: Mayor Bell.

Sewer Main and Sewer Outfall on Umstead Road from the West Property Line of PIN 0804-02-96-1256 to the East Property Line of PIN 0814-01-06-4576

**SUBJECT: SEWER EXTENSION AGREEMENT WITH BRYANT B. ROBERTS, INDIVIDUAL - FREEMAN ROAD**

**MOTION** by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to enter into a sewer extension agreement with Bryant B. Roberts, individual, to serve Freeman Road was approved at 7:40 p.m. by the following vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Excused Absence: Mayor Bell.

**SUBJECT: AGREEMENT FOR CONSTRUCTION OF UTILITY IMPROVEMENTS AND FOR REIMBURSEMENT – TOLL BROTHERS, INC.**

**MOTION** by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to enter into a contract for construction of utility improvements and for reimbursement with Toll Brothers, Inc. was approved at 7:40 p.m. by the following vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Excused Absence: Mayor Bell.

**SUBJECT: WATER EXTENSION AGREEMENT WITH DAVIS-RODWELL TMC, LLC - DAVIS PARK WEST**

**MOTION** by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to enter into a water extension agreement with Davis Rodwell TMC, LLC to serve Davis Park West was approved at 7:40 p.m. by the following vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Excused Absence: Mayor Bell.

**SUBJECT: 2007-2008 CONTRACT FOR ECONOMIC DEVELOPMENT SERVICES WITH DOWNTOWN DURHAM, INC.**

**MOTION** by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to execute the contract for Economic Development Services within the Downtown

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Durham District between the City of Durham and Downtown Durham, Inc. in an amount not to exceed \$148,048.00; and

To authorize the City Manager to modify the contract provided that the modifications do not increase the dollar amount and the modifications are consistent with the general intent of the contract was approved at 7:40 p.m. by the following vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Excused Absence: Mayor Bell.

**SUBJECT: PROPOSED ACQUISITION OF PROPERTY - PARCEL ID #159783 – TO CONSTRUCT A NEW FIRE STATION #9 - RUTH RAND WALDROP AND ALLISTER M. WALDROP**

**MOTION** by Council Member Stith seconded by Council Member Catotti to authorize the acquisition in fee simple absolute of unimproved land from Ruth Rand Waldrop and Allister M. Waldrop, identified at Parcel #159783 (4.2± acres) for a total purchase price of \$214,200.00 was approved at 7:40 p.m. by the following vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Excused Absence: Mayor Bell.

**SUBJECT: APPROVAL OF THE GRANT AWARD FOR PROJECT T.E.A.M. – A TEEN AFTER-SCHOOL PROGRAM TO BE OFFERED AT THE COMMUNITY FAMILY LIFE CENTER AT LYON PARK**

**MOTION** by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to accept the Durham County Juvenile Crime Prevention Council Grant by executing the grant documents; and

To adopt the Durham County Juvenile Crime Prevention Council Grant Project Ordinance in the amount of \$15,000.00 for Project T.E.A.M. was approved at 7:40 p.m. by the following vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Excused Absence: Mayor Bell.

**Ordinance #13503**

**SUBJECT: 2008 CITY COUNCIL SCHEDULE**

**MOTION** by Council Member Stith seconded by Council Member Catotti to adopt the 2008 City Council Schedule;

To adopt an Ordinance Cancelling the Regular City Council Work Session and Regular City Council Meeting July 10, 2008 and July 21, 2008 was approved at 7:40 p.m. by the following

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vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Excused Absence: Mayor Bell.

**Ordinance #13504**

**SUBJECT: 2007 GO BOND REFERENDUM RESOLUTION CERTIFYING AND DECLARING THE RESULTS**

**MOTION** by Council Member Stith seconded by Council Member Catotti to adopt the Resolution Certifying and Declaring the Results of the Special Bond Referendum on the Bond Order Authorizing the Issuance of \$20,000,000.00 General Obligation Street and Sidewalk Bonds held for the City of Durham, North Carolina on November 6, 2007 was approved at 7:40 p.m. by the following vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Excused Absence: Mayor Bell.

**Resolution #9515**

**SUBJECT: ORDINANCE AMENDING CITY CODE ARTICLE VI WATER CONSERVATION**

**MOTION** by Council Member Stith seconded by Council Member Catotti to adopt an Ordinance Amending Article VI, Water Conservation, Sec. 23-166 and 23-167, to Clarify Provisions Regarding Termination of Water Service, Establish Charges for Reconnection, and Make Other Minor Technical Changes was approved at 7:40 p.m. by the following vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Excused Absence: Mayor Bell.

**Ordinance #13505**

**The City Council disposed of the following agenda items at the November 8, 2007 Work Session:**

1. Voluntary Annexation Petitions Received by July 1, 2007 (g) FY2007-14

Jordan at Southpoint – This item was referred back to the administration – Budget and Mgmt. Services Dept.)

**Note: By a vote of 6/0, the City Council approved the City Manager's request to add this item to tonight's agenda.**

18. Water and Sewer Extension Agreement with Jordan at Southpointe, LLC

To authorize the City Manager to enter into a water and sewer extension agreement with Jordan at Southpointe, LLC to serve Jordan at Southpointe Subdivision.

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**Note: This item was referred back to the Administration – Public Works Dept.**

19. Water and Sewer Extension Agreement with McGregor Development Company

To authorize the City Manager to enter into a water and sewer extension agreement with McGregor Development Company to serve Doc Nichols Subdivision.

**Note: This item was referred back to the Administration – Public Works Dept.**

20. Water and Sewer Extension Agreement with Sherron Road Ventures, LLC

To authorize the City Manager to enter into a water and sewer extension agreement with Sherron Road Ventures, LLC to serve Ravenstone III Subdivision.

**Note: This item was referred back to the Administration – Public Works Dept.**

23. Durham Performing Arts Center – First Amendment to Development Agreement with ACPA, LLC and Second Amendment to Sports and Properties, Inc. Contracts

To authorize the City Manager to execute Amendment 2 to Naming Rights Sponsorship Services Agreement;

To authorize the City Manager to execute the First Amendment to Development Agreement with ACPA, LLC; and

To authorize the City Manager to modify both contracts provided that the modifications do not increase the dollar amount and the modifications are consistent with the general intent of the contract.

**Note: This item was referred back to the Administration – Economic Development Dept.**

26. Proposed Lease of Old North Durham Park (PIN 0822-20-90-6578) to Central Park School for Children Foundation

To adopt a resolution authorizing the City Manager to execute a 10-year lease of the Old North Durham Park (PIN 0822-20-90-6578) to Central Park School for Children Foundation--under the authority of G.S. 160A-279 and 160A-267,; and

To authorize the City Manager to make changes to the lease prior to execution provided that with such changes the lease remains consistent with the terms of the agenda item.

**Note: This item was referred back to the Administration – General Services Dept.**

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27. Proposed Sale of Surplus Property at 218 N. Dillard Street, Parcel 110532

To accept the offer of \$61,500.00 from Susana L. Dancy and J. Scott Harmon to purchase the property at 218 N. Dillard Street, Parcel 110532; and

To authorize the City Manager to sell and the Mayor to convey the property by a non-warranty deed.

**Note: This item was approved at the 11-08-07 Work Session.**

29. Southwest Central Durham Neighborhood Revitalization Update

To receive a presentation on the Revitalization Efforts in Southwest Central Durham.

**Note: A presentation was received at the 11-08-07 Work Session.**

30. Targeted Systematic Rental Inspections

To receive a presentation on the Systematic Inspection of Rental Properties in Targeted Neighborhoods in the City of Durham.

**Note: A presentation was received at the 11-08-07 Work Session)**

37. Jimmy Lawton

To receive a report from the Administration regarding rat control.

**Note: A report was received at the 11-08-07 Work Session)**

38. Johnny C. Carter

To receive comments from Johnny C. Carter concerning issues with government employees.

**Note: Comments were received at the 11-08-07 Work Session.**

39. Brian Mulligan

To receive comments from Brian Mulligan regarding the traffic on Marywood Drive.

**Note: Citizen did not appear at the 11-08-07 Work Session per citizen's request.**

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40. Duke Campus ONE Campaign

To receive comments from Shawn Selleck regarding to make Durham a city of ONE.

**Note: Comments were received at the 11-08-07 Work Session.**

41. Award Contract for Comprehensive Classification and Pay Plan Study

To accept the proposal from The Waters Consulting Group, Inc. in the amount of \$175,000.00 for providing the City with a Comprehensive Classification and Pay Plan Study;

To authorize the City Manager to enter into a contract with The Waters Consulting Group, Inc., in the amount of \$175,000.00 for providing the City with a Comprehensive Classification and Pay Plan Study; and

To authorize the City Manager to modify the contracts before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract.

**Note: This item was approved at the 11-08-07 Work Session.**

45. Relocation of Amtrak Station

To discuss the Relocation of Amtrak Station.

**Note: A discussion was held at the 11-08-07 Work Session.**

**[GENERAL BUSINESS AGENDA]**

**SUBJECT: POLICE DEPARTMENT'S THIRD QUARTER CRIME REPORT**

Police Chief Jose Lopez gave a power point presentation on the third quarter 2007 crime report highlighting: crime statistics -- reporting system; summary of YTD 3rd Quarter Report January - September 2007; sworn staffing; non-sworn staffing; all index crimes - January -September 2004-2007 Comparisons; all index crimes - percentage of crimes by category; all index violent crimes - January - September 2004-2007 comparisons; Homicide January - September 2004-2007 comparisons; Rape January - September 2004-2007 comparisons; Robbery January - September 2004-2007 comparisons; aggravated assault January - September 2004-2007 comparisons; all index property crimes January - September 2004-2007 comparisons; burglary January - September 2004-2007 comparisons; larceny January - September 2004-2007 comparisons; motor vehicle theft January - September 2004-2007 comparisons; percent of cases cleared - YTD comparisons and percentage change preliminary numbers; percent of cases



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cleared - DPD 2007 3Q and FBI 2006 cities 100k - 250K comparisons; Operation Bull's Eye; gang information; youth crime information; and miscellaneous information--mobile substation, warrants.

Council held discussion on clearance rate, burglary and gang membership.

Deputy Police Chief Ron Hodge discussed the membership of gang net. He stated there has been contact with every individual in the gang net within the last five years so the membership has remained the same and has increased due to additional identification of gang members.

Council held discussion on recent shootings, alleged sexual abuse case against police officers, upcoming meeting on the gang assessment consultant report, safest communities in NC and the unsolved crime on Alpine Street several years ago.

**MOTION** by Council Member Stith seconded by Council Member Catotti to receive the Police Department's Third Quarter Crime Report was approved at 8:13 p.m. by the following vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Excused Absence: Mayor Bell.

**SUBJECT: PROPOSED ACQUISITION OF PROPERTY AT 301 ARCHDALE DRIVE (PARCEL ID #134658) FROM FRIENDLY REST HOME, INC.**

To approve the fee simple absolute acquisition of land and improvements from Friendly Rest Home, Inc. (Parcel ID #134658) for \$725,000.00; and

If a Phase I Environmental Assessment reveals that any environmental remediation is necessary, authorize the City Manager to enter into an escrow agreement and to make changes to the agreement provided such changes are consistent with the substance of the sample escrow agreement.

City Manager Baker provided background information on this item. He stated the reason this item was placed in last year's CIP, which was funded by Council, is the strategic nature of the property which is essentially located next to the Public Works Operation Center and the City park. He stated it is because of the location of this property next to City property that could potentially allow the City to expand and use that property. Relative to the cell tower lease, he reported he does not anticipate the City's use of the facility, either the land, or the building would impact the cell tower lease and the administration will be in negotiations with the lease holder regarding the length of that lease. He noted the City would make renovations to the interior of that facility if and when employees are sited in the facility whether it is utilized for a fitness center or offices.

Kim Griffin, Jr. noted he was present if there were questions for the property owners. He stated the option expires today and the rest home is vacant.

Council Member Stith expressed concern with the issue of land banking.

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Council Member Clement asked staff how they arrived at the amount of \$725,000.

Real Estate Manager Sandra Harper replied this is the negotiated option price based upon the appraised value of \$700,000 and the asking price was \$875,000.

**MOTION** by Council Member Clement seconded by Council Member Catotti to approve the fee simple absolute acquisition of land and improvements from Friendly Rest Home, Inc. (Parcel ID #134658) for \$725,000.00; and

To authorize the City Manager to enter into an escrow agreement if a Phase I Environmental Assessment reveals that any environmental remediation is necessary, and to make changes to the agreement provided such changes are consistent with the substance of the sample escrow agreement was approved at 8:18 p.m. by the following vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement and Woodard. Noes: Council Member Stith. Excused Absence: Mayor Bell.

**SUBJECT: MINI ASSESSMENT ROLL FOR SEWER MAIN ON MAYO STREET  
FROM TAX MAP 603-2-1 TO THE SOUTH PROPERTY LINE OF TAX  
MAP 603-2-2**

To reconsider the assessment against the property of Ila Scott T. Atwater; and

To find that the property, identified as 818 Mayo Street, PIN 0842-17-11-8455, has benefited from the sewer main improvement and to confirm the assessment in the original amount of \$2,820.00.

Engineering and Storm Water Manager Lee Murphy made comments on this item.

Mayor Pro Tempore Cole-McFadden opened the public hearing. There being no one to speak in support for or against this item, the Mayor Pro Tem closed the public hearing.

**MOTION** by Council Member Clement seconded by Council Member Brown to reconsider the assessment against the property of Ila Scott T. Atwater; and

To find that the property, identified as 818 Mayo Street, PIN 0842-17-11-8455, has benefited from the sewer main improvement and to confirm the assessment in the original amount of \$2,820.00 was approved at 8:20 p.m. by the following vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Excused Absence: Mayor Bell.

**SUBJECT: MINI ASSESSMENT ROLL FOR SEWER MAIN ON EASLEY STREET  
FROM OBERLIN DRIVE TO THE EAST PROPERTY LINE OF PIN 0803-  
04-53-3802**

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To find that the property of Donna C. Jenkins, identified as 2701 Sparger Road (Easley Street side), PIN 0803-04-54-3140, has benefited from the sewer main improvement and to confirm the assessment in the original amount of \$1,917.60; and

To find that the property of Foy T. Hunt, identified as 4709 Easley Street, PIN 0803-04-53-3802, has not benefited from the sewer main improvement at this time and to relieve the assessment in the amount of \$1,410.00 with the provision that a future frontage charge will be due and payable at the prevailing rate should the property connect to City sewer (in accordance with City Policy).

Engineering and Storm Water Manager Lee Murphy made comments on this item.

Mayor Pro Tempore Cole-McFadden opened the public hearing. There being no one to speak in support for or against this item, the Mayor Pro Tem closed the public hearing.

**MOTION** by Council Member Clement seconded by Council Member Woodard to find that the property of Donna C. Jenkins, identified as 2701 Sparger Road (Easley Street side), PIN 0803-04-54-3140, has benefited from the sewer main improvement and to confirm the assessment in the original amount of \$1,917.60; and

To find that the property of Foy T. Hunt, identified as 4709 Easley Street, PIN 0803-04-53-3802, has not benefited from the sewer main improvement at this time and to relieve the assessment in the amount of \$1,410.00 with the provision that a future frontage charge will be due and payable at the prevailing rate should the property connect to City sewer (in accordance with City Policy) was approved at 8:21 p.m. by the following vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Excused Absence: Mayor Bell.

**SUBJECT: ORDERING PETITIONED IMPROVEMENT - SIDEWALK ON  
MONMOUTH AVENUE SOUTHSIDE FROM N. BUCHANAN  
BOULEVARD TO WATTS STREET**

To receive public comments; and

To adopt a resolution ordering Sidewalk on Monmouth Avenue (South Side) from N. Buchanan Boulevard to Watts Street.

Engineering and Storm Water Manager Lee Murphy made comments on this item.

Mayor Pro Tempore Cole-McFadden opened the public hearing. There being no one to speak in support for or against this item, the Mayor Pro Tem closed the public hearing.

**MOTION** by Council Member Woodard seconded by Council Member Clement to receive public comments; and

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To adopt a resolution ordering Sidewalk on Monmouth Avenue (South Side) from N. Buchanan Boulevard to Watts Street was approved at 8:21 p.m. by the following vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Excused Absence: Mayor Bell.

**SUBJECT: ORDERING IMPROVEMENT UNDER ENABLING ACT AUTHORITY - CURB, GUTTER & PAVING & WATER AND SEWER LATERALS ON HARVARD AVENUE FROM S. BENJAMINE STREET TO MIAMI BOULEVARD**

To receive public comments; and

To adopt a resolution ordering Curb, Gutter and Paving and Water and Sewer Laterals on Harvard Avenue from S. Benjamine Street to Miami Boulevard.

Engineering and Storm Water Manager Lee Murphy made comments on this item. Mr. Murphy noted Harvard Avenue is an existing public street that extends from Miami Boulevard to N. Hyde Park Avenue and a portion of the roadway, approximately 15,000 feet from Benjamine Street to N. Miami Boulevard, is dirt or gravel. He stated over the past several years, there have been inquiries concerning the paving of this section of Harvard Avenue and staff has issued paving petitions and the residents have not been able to acquire the necessary signatures to move forward with the petition process. He reported in September 2007, the City Council directed the administration to move forward with a public hearing to consider the order of the paving of the graveled portion of Harvard Avenue under the City's enabling act authority. He discussed that each resident and each property owner along the 15,000 foot section has received an individual letter and map of their property explaining the situation and was invited to call or meet with staff in advance to make sure they had a clear understanding of the situation and have spoken to four of the seventeen owners who called. He stated should Council decide to order the improvement the funding of the improvement is completely separate, explained the assessment process and stated adopting a resolution ordering the improvement would lock in the current assessment rate of \$45 per foot of property.

Mayor Pro Tempore Cole-McFadden opened the public hearing.

James Price, of 2715 Harvard Avenue, spoke in support of paving Harvard Avenue due to the dust.

Rev. Melvin Whitley, of 2614 Harvard Avenue, spoke in support of paving Harvard Avenue due to the property value and urged Council to support this measure and follow through on it.

Nate Engram, representing the Pastor of Greater Emmanuel Temple of Grace, noted overall his Pastor is supporting the project, but expressed concerns relative to the property frontage and assessment that has been levied against the Church. He asked if bond funds recently approved would cover the paving of Harvard Avenue and what are guidelines to determine who is assessed and the amount of assessment.

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City Manager Baker stated money that was set aside in 2005 and 2007 addresses the petition dirt street requests and Harvard Avenue will not be funded out of the 2005/2007 bond money which has been directed to existing petition street repairs.

Engineering and Storm Water Manager Lee Murphy briefed Council on the guidelines of how property owners are assessed by the frontage.

Mayor Pro Tempore Cole-McFadden closed the public hearing.

**MOTION** by Council Member Clement seconded by Council Member Woodard to receive public comments; and

To adopt a resolution ordering Curb, Gutter and Paving and Water and Sewer Laterals on Harvard Avenue from S. Benjamine Street to Miami Boulevard was approved at 8:31 p.m. by the following vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Excused Absence: Mayor Bell.

**SUBJECT: VOLUNTARY ANNEXATION PETITION RECEIVED BY JANUARY 1, 2007 - NORTHEAST CREEK DEVELOPMENT**

To receive citizens' comments concerning the annexation of the following Voluntary Annexation Area FY 2007-11 Northeast Creek Development; and

To adopt "An Ordinance Annexing to the City of Durham" the Voluntary Annexation Area [Northeast Creek Development] in accordance with N.C. General Statutes 160A-31; effective from and after December 31, 2007; and

To authorize the City Manager to pay debt service with the Bethesda VFD.

Julie Brenman stated the cost benefit analysis for this annexation shows a net gain to the City under current zoning.

Mayor Pro Tempore Cole-McFadden opened the public hearing. There being no one to speak in support for or against this item, the Mayor Pro Tem closed the public hearing.

**MOTION** by Council Member Clement seconded by Council Member Catotti to receive citizens' comments concerning the Voluntary Annexation Area FY 2007-11 Northeast Creek Development; and

To adopt "An Ordinance Annexing to the City of Durham" the Voluntary Annexation Area [Northeast Creek Development] in accordance with N.C. General Statutes 160A-31; effective from and after December 31, 2007; and

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To authorize the City Manager to pay debt service with the Bethesda VFD was approved at 8:32 p.m. by the following vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Excused Absence: Mayor Bell.

**Ordinance #13506**

**SUBJECT: THE WORSHIP CENTER INITIAL (Z07-06A)**

To conduct a public hearing and receive public comments on the initial zoning map change for The Worship Center Initial (Z07-06A);

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, to establish Residential Rural (RR) and Residential Suburban Multifamily (RS-M(D)) zoning for the property described in the attached staff report; and

To adopt as support for its action on the proposed zoning map change the determinations that, while the action is not consistent with the Comprehensive Plan, it is reasonable and in the public interest given that this reflects the zoning of the property in the County and in light of information presented in the public hearing and in the accompanying agenda materials.

Staff Recommendation: Approval, based on annexation by the Council and the information contained in this report.

Planning Commission Recommendation: Approval, per the resolution adopted by the Commission on December 13, 2005 and attached to the staff report. [The site is located at the intersection of Lumley Road and Page Road, south side of Lumley Road, west side of Page Road. PIN 0759-04-51-0649]

Interim City/County Planning Director Steve Medlin referenced this item was discussed at the November 5, 2007 City Council Meeting during which time Council continued action on this item to allow the Planning Staff to meet with some of the adjacent property owners to explain the process and project. He reported staff met with them and was not able to address all of their concerns, but staff explained the project. Also, he gave an overview of this item.

Mayor Pro Tempore Cole-McFadden opened the public hearing. There being no one to speak in support for or against this item, the Mayor Pro Tem closed the public hearing.

**MOTION** by Council Member Clement seconded by Council Member Catotti to receive public comments on the initial zoning map change for The Worship Center Initial (Z07-06A);

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, to establish Residential Rural (RR) and Residential Suburban Multifamily (RS-M(D)) zoning for the property described in the staff report; and

To adopt as support for its action on the proposed zoning map change the determinations that, while the action is not consistent with the Comprehensive Plan, it is reasonable and in the public

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interest given that this reflects the zoning of the property in the County and in light of information presented in the public hearing and in the accompanying agenda materials was approved at 8:34 p.m. by the following vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Excused Absence: Mayor Bell.

**Ordinance #13508**

**SUBJECT: ZONING MAP CHANGE - ALEXAN GARRETT FARMS (Z06-64) – TCR CAROLINAS PROPERTIES, INC. - WEST SIDE OF GARRETT ROAD, NORTH OF DURHAM-CHAPEL HILL BOULEVARD AND SOUTH OF LANDSBURY DRIVE**

To conduct a public hearing to receive public comments on the zoning map change for Alexan Garrett Farms (Z06-64);

To adopt an ordinance amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change case Z06-64 out of RS-20 and placing same in and establishing same as PDR 9.280; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.  
or

Alternatively, in the event that a motion to approve the item fails, the Council adopts as support for its action on the proposed zoning map change the determination that, notwithstanding its consistency with the Comprehensive Plan, the request is neither reasonable nor in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

Staff Recommendation: Approval, based on consistency with the Comprehensive Plan, and considering the information contained in this report.

Planning Commission Recommendation and Vote: Approval, 13-0 on August 14, 2007. The Planning Commission finds that the ordinance request is consistent with the adopted Comprehensive Plan. The Commission believes the request is reasonable and in the public interest and recommends approval based on the information in the staff report, comments received during the public hearing and additional committed elements proffered by the applicant at the meeting.

[The site is located on the west side of Garrett Road, north of Durham-Chapel Hill Boulevard and south of Landsbury Drive. PINs: 0800-02-55-7934, -65-5657, -65-7930, -66-8190, -66-8228]

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Interim City/County Planning Director Steve Medlin stated notification has been made in compliance with provisions of the UDO, affidavits have been completed and are a part of the case file and/or available for public review.

He briefed Council on the zoning request commenting on the site, Clifton and Leah Garrett Home and summarized committed elements on the development plan to include: a maximum of 308 dwelling units; no multi-story structures will be located within 250 feet of Garrett Road; apartments and duplexes will be the committed housing types; limitation on heights and locations; retaining the existing farm pond; providing a swimming pool and tot lot as recreational amenities for the development; preservation of Clifton and Leah Garrett Home and barns will be preserved until phase one construction requires removal or relocation--these structures will be offered free of charge to a party to be relocated off site at that party's expense and the developer agrees to notify the Durham Historic Preservation Society six months in advance of the required date that relocation will be necessary; minimum building setback from the FEMA regulatory 100-year floodplain shall be 30 feet; undeveloped land west of Mud Creek will remain open space/tree save areas; minimum tree coverage of 40%; greenway dedications; the applicant retaining a certified arborist to evaluate the health and potential for saving existing specimen trees; maximum impervious surface to 18%; 70-ft wide buffer; 40 ft landscape buffer; provide stormwater improvements; sediment and erosion control measures; transportation improvements: a dedication of 10-ft public right-of-way for Garrett Road; a 10-ft wide sidewalk; 4 feet of additional road width for bike lanes; constructing a northbound left-turn lane on Garrett Road and Constructing Access #1; Constructing Access #2; Pickett Road and Garrett Road/Luna Lane; and improvements to include: US Highway 15-501 (Durham-Chapel Hill Boulevard)/Garrett Road.

Mr. Medlin stated infrastructure for transit, public water and sewer utilities, storm water and schools will be available to serve this development; however, infrastructure for roads lack capacity to meet demands of the proposed development, the project will create additional traffic on the Durham/Chapel Hill Boulevard and there are future improvements by NCDOT underway for this location that would increase the road capacity. He stated staff is recommending approval of this request as being consistent with the Comprehensive Plan and with the information contained in the staff report. He informed Council that the Planning Commission recommended approval of this request.

Council Member Clement asked staff what is their position concerning the home on the property.

Interim City/County Planning Director Steve Medlin replied there is no requirement under the UDO to protect this facility which is not a locally designated historical resource. He stated staff is supportive of the applicant and the request from the neighborhood to try to protect the historic resource.

Mayor Pro Tempore Cole-McFadden opened the public hearing.

### **Proponents**

Attorney Kenneth Spaulding, representing the applicant, spoke in support of this request. He



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noted the applicant would like to continue the type of quality development in this area as accomplished with the Alexan Farms neighborhood which is adjacent to this location. He stated the developer has been working hard for a year and an half in crafting a plan along with the neighborhood which would address almost all of the neighborhood concerns. He made comments on the meetings that had taken place with everyone, commented on July 20, 2007 letter from the New Hope Creek Advisory Committee, and committed elements. He stated that approximately 98% of the concerns, requests and desires of the neighborhood were met by the developer. Regarding the abandon house, he noted the developer has agreed to donate the house to Preservation Durham for relocation and has through a committed element agreed to give them a six-month notice for said relocation and has been informed by their lawyers about their inability to keep the house at its present state and at its present location. He further stated the developer pledges to Durham Preservation its desire to donate this structure to their organization and assist in searching out locations for where this structure can be sited. He noted the developer went beyond what the traffic analysis called for at the request for the residents, urged Council to support the expression of support from various committees, residents and organizations and stated the Planning Commission recommended support.

Eddie Belk, representing the applicant, discussed the physical condition, architectural strength and integrity of the Garrett Home. He reported the home was found to be in neglected condition, there are significant areas of deteriorated conditions, the exterior porches are deteriorated, the chimney is pulling away from the home, on the rear of the home the porch has been enclosed with significant modification over the years; several of the rooms have been heavily modified, the architectural integrity of the front layout is still in tact and the integrity for the back half of the home has been distinctly changed; upper rooms have been altered. He noted the home has half of integrity of the original layout in place and the other half has been significantly altered.

Lee Pollard, 4204 Riceland Drive, stated the Garrett Farms Board of Directors supports this rezoning request. He acknowledged good faith efforts of Trammel Crow Residential [TCR] to create a dialogue with residents in the neighborhood at three community meetings. He noted working with the members of the North Garrett Road Committee, the experience, hard work and persistence with the committee in conjunction with Trammel Crow's willingness to listen and consider the committee's suggestions has resulted in significant, positive changes to the original proposed design. He stated one of the most important changes to Trammel's plan has to do with the traffic safety and the requirement for significant traffic improvements along Garrett Road and 15-501 and in conjunction with the building of the new development. He stated completion of traffic improvements is necessary before the issuance of a certificate of occupancy.

Leah Ogden, of 15 Porchlight Court, spoke in favor of this proposed development urging Council to support this rezoning because: 1) TCR has acted in good faith with the community; 2) TCR's goodwill is evident in the committed elements; and 3) they have addressed and committed to substantial solutions for traffic safety.

Robert Healy stated the New Hope Creek Corridor Advisory Committee supports this good project which is sensitive to the New Hope issues.

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Lisa Gehtland, of 8 Streamley Court, read a letter of support from a resident of 106 Landsbury Drive that was presented to the City Clerk for the record.

## **Opponents**

Ellen Dagenhart, representing Preservation Durham, spoke in opposition to this rezoning request urging Council to help them preserve this humble landmark which is in good shape.

John Compton, representing Preservation Durham, spoke in opposition to this rezoning. He stated this project can be approved with four amendments to the committed elements on the plan and one of the elements would be to raise the number of units by one to keep that house residential, but all other elements could be put in place tonight without delaying the project. He read an excerpt from the UDO -- subdivision design should be sensitive to the protection and preservation of existing site features -- natural and manmade --to the maximum extent possible, etc.

Bob Jentsch, of 3906 Springstop Lane, spoke in opposition to this rezoning request. He asked that this proposed rezoning be deferred until at least the following three major issues are satisfactorily addressed: 1) add a committed element that begins to treat storm water as resource rather than a problem, 2) retain Garrett Homestead in place--attachment #2 and 3) reduce the number of units to 258, which will lessen the impact on our public facilities, particularly the traffic on 15-501.

Helen Fischer, of 3817 W. Crest Street/representing New Hope for Durham, spoke in opposition to this rezoning request. She stated the issues of density, traffic, safety, environment, schools and history were not really addressed in this process. She urged Council to defer this item because there were inconsistencies in the process, the will of the entire neighborhood was not heard, and this proposal overtaxes the nature resources of the surrounding neighbors.

Hope Taylor, representing Clean Water for NC, spoke in opposition to this rezoning request. She urged Council to not approve this request at this time to give City staff, concerned citizens and the developer an opportunity to work together to prevent further impacts to the downstream waters and to create cost-effective, water management strategies for this and other public and private developments that can be a part of the solution for Durham's and our region's water future.

## **Rebuttal**

Attorney Kenneth Spaulding made comments on the meetings that had taken place and a committed element was made to the homeowner's association. He spoke against a deferral because this matter has been delayed three months since the time the Planning Commission voted and asked that money not be spent on un-necessary delays. Regarding the two-story house, he noted a committed element was made to not have any two-story dwellings, the developer will work with Durham Preservation or anyone to help find a location that will be suitable for the structure that exists.

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Council Member Clement asked staff to keep Council informed about the ultimate disposition of the Garrett Farm house.

Council Member Woodard asked about the cost of moving the Garrett Farm house.

Attorney Spaulding, representing the applicant, replied approximately \$50,000.00.

John Compton, of Durham Preservation, replied the cost of moving a house is contingent on where you move the house.

Council Member Woodard expressed concern about the increase in the number of students.

George Stanziale, representing the applicant, proffered the following committed element: To donate and contribute \$1,000 per student to the Durham Public Schools system for the additional 29 students generated by this new rezoning.

Council Member Catotti asked staff to comment on the additional capacity to 15-501 and address transportation improvements.

Wesley Parham, of the Transportation Division, reported the improvements for 15-501 would bring the area under capacity and gave an overview of the staff report highlighting the current capacity.

Council Member Catotti asked staff to comment on the movement of the surface road and how it would improve the intersection safety.

Wesley Parham, of the Transportation Division, reported the surface road in front of the existing convenient store will be closed and relocated to the south which should substantially improve the safety of the intersection by removing additional conflicts that arise due to the proximity of that service road entrance to 15-501.

Council Member Catotti asked staff to address how transportation improvements will be tied to certificate of occupancy.

Wesley Parham, of the Transportation Division, stated the effected intersections are currently operating below the accepted level of service which means the improvements at those intersections must be complete and fully operational prior to the issuance of any certificates of occupancy for this development and the NCDOT improvements also would have to be completed prior to the issuance of any certificates of occupancy.

Council Member Catotti noted the level of density is appropriate for this location, commented on the water capacity and expressed concern about pedestrian safety.

George Stanziale, representing the applicant, proffered the following committed element: Prior to first certificate of occupancy, construct a sidewalk to meet local and state standards along the

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west side of Garrett Road from 15-501 north to the southernmost entrance to Oak Creek Shopping Center subject to right-of-way availability.

Council Member Catotti asked staff if a mid-block crosswalk is recommended at this point.

Wesley Parham, of the Transportation Division, noted a mid-block crosswalk could be considered under the jurisdiction of the NC Department of Transportation. He stated as part of the construction of this site, staff would require a sidewalk connection or wheel-chair ramp at the intersection of the drive-way with this being taken up during the site plan and construction drawing phase.

Council Member Catotti asked the applicant to address the storm water concerns and future plans for sedimentation and erosion ordinances in the UDO.

Interim City/County Planning Director Steve Medlin reported the state has recently modified the sedimentation and erosion control statutes, the County has been working on revisions and adopted some modifications as well as looking at additional modification in keeping with the Cape Fear rules. He noted the sedimentation and erosion staff has indicated what is being proffered by the applicant is greater than what the ordinance is requiring.

Council Member Catotti asked the applicant is there a time certain associated with the school donation proffer.

George Stanziale, representing the applicant, replied prior to the first certificate of occupancy.

Council Member Brown asked staff to address the requirements of storm water capture.

Interim City/County Planning Director Steve Medlin reported there is nothing in the current storm water requirements; however, this issue will be discussed at the Joint City/County Planning Committee meeting in December.

Council Member Brown made comments on his site visit to the Garrett Road home, farm bungalow and letter received from Preservation Durham.

Council Member Brown asked the applicant why not sell or give this house to Preservation Durham and have them to renovate it and sell it.

Attorney Kenneth Spaulding discussed the committed element that states there can be no two-story structure within 250 feet of Garrett Road.

Council Member Brown asked the applicant will there be additional help with the cost of moving the house.

George Stanziale, representing the applicant, proffered the following committed element: Contribute \$10,000 for the assistance in the relocation of the Clifton and Leah Garrett Family House to the grantee prior to the relocation of the house.

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George Stanziale, representing the applicant, outlined measures to address energy/water conservation efforts that will be taken into consideration during the building of this development as requested by Mayor Pro Tempore Cole-McFadden.

Interim City/County Planning Director Steve Medlin read the following committed elements that were proffered by the applicant:

1. Prior to the first certificate of occupancy, construct a sidewalk to meet local and state standards along the west side of Garrett Road from 15/501 north to the southernmost entrance to Oak Creek Shopping Center subject to right-of-way availability.
2. Prior to the first certificate of occupancy, donate and contribute \$1,000 per student to Durham Public Schools for the 29 additional students generated by this new rezoning.
3. Contribute \$10,000 for assistance in the relocation of the Clifton and Leah Garrett Family House to the grantee prior to the relocation of the house.

Mayor Pro Tempore Cole-McFadden closed the public hearing.

**MOTION** by Council Member Clement seconded by Council Member Brown to receive public comments on the zoning map change for Alexan Garrett Farms (Z06-64);

To adopt an ordinance amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change case Z06-64 out of RS-20 and placing same in and establishing same as PDR.9.280; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials; or Alternatively, in the event that a motion to approve the item fails, the Council adopts as support for its action on the proposed zoning map change the determination that, notwithstanding its consistency with the Comprehensive Plan, the request is neither reasonable nor in the public interest in light of information presented in the public hearing and in the accompanying agenda materials was approved at 10:01 p.m. by the following vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Excused Absence: Mayor Bell.

### **Ordinance #13507**

There being no further business to come before the City Council, the meeting was adjourned at 10:03 p.m.

Linda E. Bratcher  
Deputy City Clerk

D. Ann Gray, CMC  
City Clerk